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August 30, 2002

BY HAND DELIVERY

Ms. Marlene H. Dortch

Secretary

Federal Communications Commission

445 12th Street, S.W., Room TW-A325

Washington, DC 20554

02-326
RECEIVED - FCC

AUG 30 2002

Federal Communication Commission
Bureau / OfficeRe: Impsat USA, Inc.

Ladies and Gentlemen:

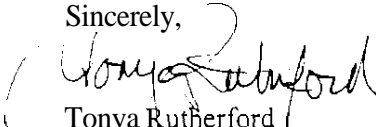
Enclosed for filing and on behalf of Impsat USA, Inc. ("Impsat"), are an original and two copies of an application for Transfer of Control of Impsat from its parent company, Impsat Fiber Networks, Inc., as Debtor-in-Possession. to the new shareholders of the reorganized Impsat Fiber Networks, Inc.

Simultaneous with the submission of this Application, Impsat is filing the necessary individual applications to effectuate the transfer of control of Impsat. These applications are:

- **An** application for Cable Landing License
- **An** application for Joint Domestic/International Section 214 for Transfer of Control
- **An** application for Transfer of Control of Satellite Earth Station licenses of Impsat USA, Inc.

Please contact me if you have any questions.

Sincerely,


Tonya Rutherford
of LATHAM & WATKINS

Enclosures

cc. David Krech, International Bureau
Claudia Fox, International Bureau
Bill Dever, Wireline Competition Bureau
Bill Howden, International Bureau

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
Impsat USA, Inc.)
)
Application for Consent to Transfer Control)
of a Company Holding Licenses and)
Authorizations Pursuant to Sections 214 and)
310(d) of the Communications Act of 1934, as)
Amended, and the Act Relating to the)
Landing and Operation of Submarine Cables)
in the United States)

U.S. - 5/16

APPLICATION FOR TRANSFER OF CONTROL

I. INTRODUCTION

Impsat USA, Inc. ("Impsat USA" or the "Company"), pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 214, 310(d) (the "Act"), the Act Relating to the Landing and Operation of Submarine Cables in the United States, 47 U.S.C. §§ 34-39, and Sections 1.767, 25.119, and 63.03 of the rules of the Federal Communications Commission ("Commission" or "FCC"), 47 C.F.R. §§ 1.767, 25.119, and 63.03, hereby requests Commission consent to the transfer of control of Impsat USA from its parent company, Impsat Fiber Networks, Inc. ("Impsat Fiber Networks"), as Debtor-in-Possession, to the new shareholders of the reorganized Impsat Fiber Networks. Impsat Fiber Networks has filed a voluntary petition for reorganization under Chapter 11 of the United States Bankruptcy Code and plans to restructure its indebtedness by converting certain of its existing

debt into equity.' Impsat USA did not participate in the Chapter 11 filing, and its operations will continue without interruption during the restructuring of its parent company.

As set forth more fully below and in the attached individual applications, the proposed transfer of control serves the public interest because it will allow Impsat Fiber Networks to reorganize its business and financial structure. This transaction is key to Impsat Fiber Networks' successful emergence from bankruptcy and its ability to reposition itself as a competitive force in the international telecommunications marketplace. Significantly, Impsat Fiber Networks' emergence from bankruptcy, in turn, will provide Impsat USA with access to greater financial resources, enhancing Impsat USA's own competitiveness.

Impsat USA requests expeditious treatment of this Application, as it expects the Bankruptcy Court to confirm Impsat Fiber Networks' Reorganization Plan in October 2002. Impsat IJSA is filing this Application as soon as possible in view of the circumstances of the contemplated restructuring. Expeditious processing will enable the reorganized Impsat Fiber Networks to implement its restructuring plan in a timely fashion.

II. DESCRIPTION OF THE PROPOSED TRANSFER OF CONTROL

A. Description of the Applicant

Impsat USA is a Delaware corporation based in Florida. It provides satellite and submarine cable-based international telecommunications services not interconnected with the public switched network, including private line voice, data, video and business services, between the United States and Latin America. Impsat USA also provides a small amount of interstate

Impsat USA previously notified the Commission of the *pro forma* transfer of control of Impsat USA from Impsat Fiber Networks to Impsat Fiber Networks as Debtor-in-Possession. On June 21, 2002, Impsat USA and Impsat Fiber Networks filed FCC Form 312 and Schedule A with respect to the 17 non-common carrier earth station licenses held by Impsat USA. On July 11, 2002, Impsat USA submitted letter notifications with respect to its blanket domestic Section 214 authorization and its international Section 214 authorizations and, with respect to the cable landing license for the AMERICAS II submarine cable system, notified the Commission of the *pro forma* transfer of control and sought modification of the cable landing license to reflect the transfer.

telecommunications services incidental to its international services. Impsat USA does not provide intrastate telecommunications services.

Impsat Fiber Networks, a Delaware holding company based in Buenos Aires, Argentina, wholly owns Impsat USA. Impsat Fiber Networks is a leading provider of broadband data transmission and private network integrated data and voice telecommunications services in Latin America. Through its subsidiaries, it provides services to approximately 3,000 national and multinational companies and governmental entities and wholesale services to carriers, ISPs and other service providers throughout Latin America. Subsidiaries of Impsat Fiber Networks currently operate in Argentina, Colombia, Venezuela, Ecuador, Mexico, Brazil, the United States (Impsat USA), Chile, and Peru.

Approximately 75% of the capital stock of Impsat Fiber Networks currently is held by three principal stockholders: Nevasa Holdings, Ltd., a British Virgin Islands holding company that individually holds 38.5% of the capital stock; Nunsgate Ltd., an Isle of Man telecommunications company that individually holds 20% of the capital stock; and Morgan Stanley & Co. Incorporated, a U.S. investment bank that individually holds 16.3% of the capital stock. The remaining approximately 25% of the parent company's capital stock is widely dispersed among several entities, including public stockholders. Impsat Fiber Networks' stock trades over the counter under the ticker symbol IMPT.

B. Proposed Restructuring of Impsat Fiber Networks

Like many other telecommunications companies, Impsat Fiber Networks has been dramatically impacted by the recent economic downturn. Impsat Fiber Networks has significant debts and without restructuring its indebtedness would soon exhaust its cash resources. Consequently, on June 11, 2002, the company filed for bankruptcy protection under Chapter 11

of the United States Bankruptcy Code.² Under a pre-negotiated Reorganization Plan expected to be filed with the Bankruptcy Court within the next couple of weeks, all existing equity in Impsat Fiber Networks will be extinguished, approximately \$525 million of indebtedness represented by Impsat Fiber Networks' \$300 million Senior Notes due 2005 and its \$225 million Senior Notes due 2008 will be converted and exchanged into 98% of the outstanding new common stock of Impsat Fiber Networks, and other indebtedness of, or guaranteed by, Impsat Fiber Networks, including its \$125 million Senior Notes due 2003, will be exchanged for convertible notes, warrants to acquire common stock, and other reduced amounts of restructured indebtedness.

Following consummation of the proposed transfer of control, equity in Impsat Fiber Networks is likely to be widely dispersed among the stockholders, and no single stockholder will control the reorganized company. Because noteholders are entitled to continue to trade their Senior Notes throughout the reorganization process, and because there are potentially hundreds of individual noteholders, it is not possible at this time to ascertain the identities of all of Impsat Fiber Networks' future stockholders or their exact future percentages of the parent company's total capital stock. Moreover, Impsat Fiber Networks' Senior Notes are almost exclusively held in the "street name" of depository institutions that hold the Senior Notes on behalf of their clients and/or sponsor or manage the ultimate beneficial owner or mutual fund, and the identities of those beneficial owners will not become known, if ever, until ballots on the Reorganization Plan are returned.³ To the extent there are any material changes in the expected

² See *In re Impsar Fiber Networks*, Case No. 02-12882 (R.E.G.) (Bankr. S.D.N.Y.), filed June 11, 2002.

³ There are bankruptcy or securities laws that require individual noteholders to vote their Senior Notes in the Bankruptcy Case in their own names. While U.S. securities laws will require any holder of 5% or greater of Impsat Fiber Networks' common stock to file a Schedule 13-D with the U.S. Securities and Exchange Commission, any such filings would be made after the consummation of the Bankruptcy Case.

equity ownership of Impsat Fiber Networks from the structure described below. Impsat USA will amend or supplement this Application promptly

Impsat Fiber Networks has advised Impsat USA that it understands that the largest holders of its Senior Notes due 2005 and Senior Notes due 2008, who will acquire voting common stock of the reorganized Impsat Fiber Networks pursuant to the Plan of Reorganization are Morgan Stanley & Co. Incorporated ("Morgan Stanley"), York Capital Management ("York"), and Merrill Lynch Asset Management ("Merrill Lynch"). In addition, Impsat Fiber Networks has advised Impsat USA that it understands and believes that Morgan Stanley, York, and Merrill Lynch, each of which is a sophisticated U.S. institutional investor, holds the Senior Notes in one or more mutual funds or other institutional accounts that the entities manage for their own account or on behalf of their clients. Representatives of Impsat Fiber Networks also have advised Impsat USA that, based on their review of available information, these entities are expected to hold approximately 18%, 16.2%, and 12.5% of the reorganized company's newly issued common stock, respectively. Impsat Fiber Networks' management will receive approximately 2% of the newly issued common stock.

As mentioned above, other existing indebtedness of, or guaranteed by, Impsat Fiber Networks will be exchanged or reduced. Holders of Impsat Fiber Networks' Senior Notes due 2003 will exchange such indebtedness for new guaranteed convertible senior notes in a reduced aggregate principal amount initially convertible into approximately 23% of Impsat Fiber Networks' new common stock ("Series A Convertible Notes"). If creditors under certain financing agreements, including Nortel Networks Limited ("Nortel"), vote in favor of the proposed restructuring, they will receive a combination of senior secured indebtedness of Impsat Fiber Networks' subsidiaries in Argentina and Brazil totaling in the aggregate \$134.9 million.

\$19.9 million in the aggregate of new senior guaranteed notes of Impsat Fiber Networks initially convertible in the aggregate into 4.4% of Impsat Fiber Networks' new common stock ("Series B Convertible Notes") and warrants to acquire 14.2% in the aggregate of Impsat Fiber Networks' new common stock. Of these amounts, if Nortel were to convert all of the Series B Convertible Notes and to exercise all of the warrants that it is expected to receive in the restructuring, it would hold approximately 16.3% of Impsat Fiber Networks' common stock on a fully-diluted basis.' Completion of the restructuring plan is subject to certain conditions, including its acceptance by affected classes of creditors and receipt of required regulatory approvals

Based on Impsar USA's reasonable diligence, as well as information provided by Impsat Fiber Networks to the best of the latter's knowledge and belief, none of Morgan Stanley, York, or Merrill Lynch is affiliated with a foreign carrier.⁵ For the reasons noted above, Impsat USA also *is* unable to project the approximate percentage of future foreign ownership in the capital stock of the reorganized Impsat Fiber Networks." Impsat USA has been advised, however, that a substantial majority of the new equity in Impsat Fiber Networks is expected to be held by U.S. entities

Because the conversion and exercise prices of the convertible notes and warrants are expected to exceed the market price of the new common stock, Impsat Fiber Networks has advised Impsat USA that it does not expect that Nortel or any of the other holders of the convertible notes or warrants actually will acquire new common stock for the foreseeable future, if ever. The provisions of the convertible notes and warrants will require that any holder wishing to exercise such securities and acquire new common stock first obtain all requisite governmental approvals, including those of the Commission, should any Commission approvals be required.

In an effort to evaluate whether Morgan Stanley, York, or Merrill Lynch is affiliated with a foreign carrier within the meaning of the Commission's rules, representatives of Impsat USA reviewed FCC filings and 13-D filings submitted to the Securities and Exchange Commission, and had discussions with representatives of Impsat Fiber Networks, who, in turn, had discussions with certain of the creditors.

Impsat USA holds no common carrier radio licenses. Impsat USA notes that, because Section 310(b)(4) of the Act does not apply to licenses issued on a non-common carrier basis, such as the non-common carrier earth station license⁵ held by Impsat USA, it is not required to make a **foreign ownership showing** in this Application. *In re Application of LMGT ASTRO LICENSEE, LLC, Assignor and ASTROLINK INTERNATIONAL, LLC, Assignee, For Authority to Assign Authorization to Launch and Operate a System of Ka-Band Fixed Satellites*, Order and Authorization, 15 FCC Rcd 21777 (1999)

Upon reorganization, Impsat Fiber Networks' current Board of Directors will resign, and a new seven-member Board of Directors will be appointed. The members of the new Board are not yet known but will include the chief executive officer of the reorganized company, two persons designated by the holders of the Series A Convertible Notes (so long as the initial holders of those securities continue to have the right to own at least 7.5% of new common stock on a fully-diluted basis), and one person designated by Nortel (so long as Nortel continues to have the right to own at least 4.5% of new common stock). The remaining directors will be appointed and thereafter elected by the holders of the reorganized Impsat Fiber Networks' outstanding new common stock. Thus, no stockholder will have a majority of seats on the Board. Impsat USA has been advised that the current senior management of Impsat Fiber Networks **likely** will remain in place after the reorganization is completed.

C. Description of Impsat USA's Authorizations and Applications

Impsat USA holds several FCC authorizations. It is one of several consortium members that holds a cable landing license to operate the submarine cable system called AMERICAS II.⁷ In addition, Impsat USA holds 17 non-common carrier earth station licenses, a blanket domestic Section 214 authorization, and three international Section 214 authorizations.⁸

⁷ *AT&T Corp. et al., Joint Application for a License to Land and Operate a Digital Submarine Cable System Among Florida, Puerto Rico, the U.S. Virgin Islands, Martinique, Curacao, Trinidad, Venezuela, French Guiana and Brazil, the AMERICAS-II Cable System*, File No. SCL-98-003, SCL-98-003A, Cable Landing License, 13 FCC Rcd 22540 (1998).

⁸ One of Impsat USA's three international Section 214 authorizations is associated with the license to operate the AMERICAS II cable system. *AT&T Corp., et al. Joint Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Construct, Acquire, and Operate Capacity in a Digital Submarine Cable System, the AMERICAS-II Cable System*, File No. ITC-98-342, File No. ITC-98-342A, Memorandum Opinion, Order and Authorization, 13 FCC Rcd 22534 (1998). The other two are international facilities-based and resale Section 214 authorizations, respectively. *Impsat USA, Inc. Application for Authority to Acquire and Operate Facilities for Service to Various Overseas Points*, File No. ITC-95-434, Order, Authorization and Certificate, 10 FCC Rcd 10357 (1995), *petition for reconsideration denied*, *Impsat USA, Inc. Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Acquire and Operate Facilities for Service to Various Overseas Points*, *Application for Authorization Pursuant to Section 214 of the Communications Act of*

Individual applications requesting Commission consent to the proposed transfer of control are attached hereto as Exhibit A (Cable Landing License Application), Exhibit B (Joint Domestic/International Section 214 Application), and Exhibit C (Earth Station Application)

III. PUBLIC INTEREST STATEMENT

A. The proposed transfer of control will yield affirmative public interest benefits.

In considering the proposed transfer of control under Sections 214 and 310(d) of the Act, the Commission must evaluate whether the transfer serves the public interest, convenience, and necessity.⁴⁷ Approval of the proposed transfer of control will serve the public interest for several reasons

Significantly, the proposed transfer of control will strengthen Impsat Fiber Networks financially, which, in turn, will enhance Impsat USA's own financial viability and ability to compete in the international telecommunications market. As the Commission is aware, due to the recent economic downturn of the financial markets and the general slowing of the economy, financing for telecommunications companies, such as Impsat Fiber Networks, is almost non-existent. The result of these financial difficulties has been that, as here, many telecommunications providers have declared bankruptcy, and others have been forced to sell their assets at significant losses. Under the proposed restructuring, Impsat Fiber Networks will emerge from bankruptcy and will be in a position to provide Impsat USA with access to greater financial resources. The Commission has recognized in the past that a transfer of control that

1934, as Amended, to Operate as an International Resale Carrier, Memorandum Opinion, Order, Authorization, Certificate, and Order on Reconsideration, 12 FCC Red 7682 (1997); *Impsat USA, Inc. Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Acquire and Operate Facilities for Service to Various Overseas Points*, Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Operate as an International Resale Carrier, File No. ITC-95-485, Memorandum Opinion, Order, Authorization, Certificate, and Order on Reconsideration, 12 FCC Red 7682 (1997).

⁴⁷ 47 U.S.C. §§ 214, 310(d).

bolsters the financial ability of a licensee serves the public interest."¹⁰ Moreover, access to strong financial resources will help to foster greater competition in the international telecommunications marketplace by enhancing Impsat USA's ability to compete with well-financed rival companies.¹¹ The Commission has repeatedly held that the public interest is served if a proposed transaction would increase competition among market participants.¹²

Consumers also will benefit from the proposed transfer of control through continued and enhanced choice among international telecommunications providers. By providing Impsat USA with access to greater financial resources, the proposed transfer of control of Impsat USA will strengthen the Company's ability to offer competitive services and thus promote more customer choice for telecommunications services. Impsat USA reiterates that the transfer of control will not have an adverse impact on its customers, as Impsat USA did not itself participate in the Chapter 11 filing and will continue to operate normally throughout the restructuring of its parent company.

Finally, approval of the proposed transfer of control is consistent with the goals of the bankruptcy process. The Commission has acknowledged the importance of fulfilling the objectives of the bankruptcy laws, which include equality of distribution among creditors, a fresh start for debtors, and the efficient and economical administration of cases.¹³ The proposed

¹⁰ *In-Flight Phone Corp. for Transfer of Control to MCI Telecommunications Corp.*, Declaratory Ruling and Order, 10 FCC Rcd 10448, 10449 ¶7 (1995).

¹¹ *Id.*

¹² *Id.*; *Execuline of Sacramento, Inc. Transferor, and American Sharecom, Inc. Transferee*, Memorandum Opinion and Order, 6 FCC Rcd 5964, 5964 ¶6 (1991).

¹³ *Fox Television Stations, Inc.*, Declaratory Ruling, 8 FCC Rcd 5341, 5343-44 ¶14 (1993).

restructuring will allow the reorganized Impsat Fiber Networks to be free of the financial constraints associated with bankruptcy and enable the parent company to start anew.¹⁴

B. The proposed transaction will not violate the Act or the Commission's rules or frustrate the Commission's efforts to enforce the Act.

As a part of its public interest evaluation, the Commission must weigh the potential public interest harms of the proposed transfer of control against the potential public interest benefits to ensure that the transfer serves the public interest, convenience, and necessity.¹⁵ As noted above, the proposed transfer of control will yield affirmative and substantial public interest benefits and is fully consistent with the Act and the Commission's rules. Furthermore, there is no basis for concluding that the proposed transaction could potentially harm the public if consummated.

The proposed transfer of control will not adversely impact competition in any of the markets in which Impsat USA currently provides telecommunications services. The Commission has noted that the international telecommunications marketplace is highly competitive.¹⁶ Indeed, Impsat US4 is one of numerous providers of international telecommunications services to Latin America. Significantly, no competitors will be eliminated or adversely affected as a result of the proposed transfer of control. Based on Impsat USA's reasonable diligence, as well as information provided by Impsat Fiber Networks to the best of the

¹⁴ See e.g., *Telemundo Group, Inc. Debtor in Possession (Transferor) and Telemundo Group, Inc. (Transferee) for Transfer of Control of Telemundo of Puerto Rico, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 1104, 1006 ¶13 (1994).

¹⁵ *Lockheed Martin Global Telecommunications, Comsat Corp. and Comsat General Corp., Assignor, and Telenor Satellite Mobile Services, Inc. and Telenor Satellite, Inc., Assignee, Applications for Assignment of Section 214 Authorizations, Private Land Mobile Radio Licenses, Experimental Licenses, and Earth Station Licenses and Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act*, Order and Authorization, 16 FCC Rcd 22897, 22903 ¶13 (2001).

¹⁶ *2000 Section 43.82 Circuit Status Data*, Federal Communications Commission, International Bureau (rel. June 2001).

latter's knowledge and belief, neither York nor Merrill Lynch¹⁷ provides telecommunications services to the public or controls an entity or holds any meaningful ownership in an entity that provides telecommunications services in **the** same markets as Impsar USA

1800 Impsat USA's diligence reflects that affiliates of Morgan Stanley have minimal telecommunications-related holdings. The proposed transaction therefore will not adversely affect telecommunications competition in the United States. Specifically, Morgan Stanley Capital Group, Inc., an affiliate of Morgan Stanley, holds two common carrier fixed mobile licenses." Because Morgan Stanley Capital Group, Inc. and Impsat USA serve different markets," competition is not threatened by approval of this transaction. Affiliates of Morgan Stanley also hold equity ownership interests of 69.6% in Choice One Communications Inc. ("Choice One").²⁰ a facilities-based competitive local exchange carrier ("CLEC") and interexchange carrier ("IXC"). Competition in the local exchange and long distance markets will not be adversely affected by the proposed transaction because Choice One does not possess

¹⁷ The Commission's files reflect that Merrill Lynch's parent company and its affiliates hold 10 industrial/business radio licenses. In addition, the Commission's files reflect that Merrill Lynch's parent company holds an aeronautical fixed license. That Merrill Lynch's parent company and/or affiliates hold industrial/business radio licenses and an aeronautical fixed license does not pose a competitive threat because such licenses are not used to provide telecommunications services to the public.

¹⁸ The Commission's files reflect that Morgan Stanley Capital Group, Inc. is authorized to use frequencies in the 39 GHz band to serve the Albany-Schenectady-Troy, NY and Fresno, CA markets on a common carrier basis.

¹⁹ None of Impsat USA's circuits originates or terminates in the Albany-Schenectady-Troy, NY or Fresno, CA market.

²⁰ In the Matter of Choice One Communications International Inc. Petition for Global Authority Pursuant to Section 214 of the Communications Act of 1934, as amended, to Operate as a Facilities-Based and Resale Carrier Between the United States and International Points (File No. ITC-214-19981117-00802) (filed November 17, 1998); Morgan Stanley Capital Partners III, Inc., MSDW Capital Partners IV, Inc., Schedule 13-D (filed April 25, 2002). Choice One provides local exchange and long distance telecommunications services in second and third tier markets in the northeastern and midwestern United States. Choice One also holds an international Section 214 authorization. *Overseas Common Carrier Section 214 Applications and Section 310(b)(4) Actions Taken*, Public Notice, DA No. 99-113 (rel. Jan. 7, 1999).

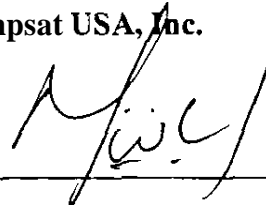
significant market share in any telecommunications market in the United States.²¹ Accordingly,
the proposed transfer of control serves the public interest and should be approved.

IV. CONCLUSION

For these reasons, Impsat **USA** respectfully requests that the Commission consent to the transfer of control of Impsat **USA** as expeditiously as possible.

Respectfully submitted,

Impsat USA, Inc.

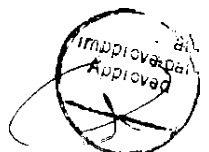


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Dare: August 28, 2002

²¹ As the FCC noted in this year's edition of *Trends in Telephone Service*, CLECs collectively provided only 9% of switched access lines in service to end-user customers nationwide at the end of June 2001. *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division. (rel. May 2002) at 9-1. Similarly, last year AT&T, Worldcom, and Sprint collectively held approximately 78% of the market share of the residential long distance market. *Id.* at Table 10.10. The remaining 22% of market share is widely distributed among over 700 IXCs.



Attachments

Exhibit A - Cable Landing License Application

Exhibit B - Joint Domestic/International Section 214 Application

Exhibit C - Earth Station Application

EXHIBIT B

**JOINT DOMESTIC/INTERNATIONAL SECTION 214
APPLICATION**

In the Matter of)
Impsat USA, Inc.)
)
Application for Consent to Transfer Control)
of a Company Holding Blanket Domestic and)
International Authorizations Under Section)
214 of the Communications Act of 1934, as)
Amended)

1. INTRODUCTION

Impsat USA, Inc. (“Impsat USA”), pursuant to Section 214 of the Communications Act of 1934, as amended **47** U.S.C. § 214 (the “Act”), and Section 63.04(b) of the rules of the Federal Communications Commission (“Commission” or “FCC”), 47 C.F.R. § 63.04(b), hereby requests that the Commission consent to the transfer of control of Impsat USA from, its parent company, Impsat Fiber Networks, Inc. (“Impsat Fiber Networks”) **as** Debtor-in-Possession’ to the new shareholders of Impsat Fiber Networks. On June 11, 2002, Impsat Fiber Networks filed a voluntary petition for reorganization under Chapter 11 of the United **States** Bankruptcy Code,² and the company plans to restructure its indebtedness by converting certain of its existing debt into equity. Impsat USA, holder of a blanket domestic Section 214 authorization³ and three international Section 214 authorizations: seeks streamlined expedited

¹ On July 11, 2002, Impsat USA submitted letter notifications with respect to its blanket domestic Section 214 authorization and its international Section 214 authorizations advising the Commission that control of Impsat USA had transferred from Impsat Fiber Networks to Impsat Fiber Networks as Debtor-in-Possession.

See In re Impsat Fiber Networks, Case No. 02-12882 (R.E.G.) (Bankr.S.D.N.Y.), filed June 11, 2002

¹ Section 63.01(a) of the Commission's rules provides that "Any party that would be a domestic interstate communications common carrier is authorized to provide domestic, interstate services to any domestic point and to construct, acquire, or operate any domestic transmission line as long as it obtains all necessary authorizations from the Commission for use of radio frequencies." 41 C.F.R. § 63.01(a).

trearment of this Application, as it expects the Bankruptcy Court to confirm Impsat Fiber Networks' Reorganization Plan in October 2002

II. DESCRIPTION OF THE APPLICANT

Impsat USA is a Delaware corporation based in Florida that provides satellite and submarine cable-based international private line voice, data, video and business telecommunications services not interconnected with the public switched network between the United States and Latin America. Impsat USA also provides a small amount of interstate telecommunications services incidental to its international services. In addition to its blanket domestic Section 214 authorization and three international Section 214 authorizations,⁴ Impsat USA holds 17 non-common carrier earth station licenses and is one of several consortium members that holds a cable landing license to operate the submarine cable system called AMERICAS II

Impsat USA is wholly owned by Impsat Fiber Networks, a Delaware holding company based in Buenos Aires, Argentina. Through its subsidiaries in Argentina, Colombia,

⁴ *Impsar USA, Inc. Application for Authority to Acquire and Operate Facilities for Service to Various Overseas Points*, Order, Authorization and Certificate, File No. ITC-95-434, 10 FCC Rcd 10357 (1995); *petition for reconsideration denied, Impsar USA, Inc. Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Acquire and Operate Facilities for Service to Various Overseas Points*, Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Operate as an International Resale Carrier, Memorandum Opinion, Order, Authorization, Certificate, and Order on Reconsideration, 12 FCC Rcd 7682 (1997); *Impsar USA, Inc. Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Acquire and Operate Facilities for Service to Various Overseas Points. Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Operate as an International Resale Carrier*, File No. ITC-95-485, Memorandum Opinion, Order, Authorization, Certificate, and Order on Reconsideration, 12 FCC Rcd 7682 (1997); *AT&T Corp., et al. Joint Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Construct, Acquire, and Operate Capacity in a Digital Submarine Cable System, the AMERICAS-II Cable System*, File No. ITC-98-342A, Memorandum Opinion, Order and Authorization, 13 FCC Rcd 22534 (1998).

One of Impsat USA's three Section 214 authorizations is associated with the cable landing license to operate the AMERICAS II cable system. The license was granted on November 10, 1998. *AT&T Corp. et al., Joint Application for a License to Land and Operate a Digital Submarine Cable System Among Florida, Puerto Rico, the U.S. Virgin Islands, Martinique, Curacao, Trinidad, Venezuela, French Guiana and Brazil, the AMERICAS-II Cable System*, Cable Landing License, 13 FCC Rcd 22540 (1998).

Venezuela, Ecuador, Mexico, Brazil, the United States (Impsat USA), Chile, and Peru, Impsat Fiber Networks provides broadband data transmission and private network integrated data and voice telecommunications services to approximately 3,000 national and multinational companies and governmental entities and wholesale services to carriers, ISPs and other service providers throughout Latin America.

III. DESCRIPTION OF THE PROPOSED TRANSACTION

On June 11, 2002, Impsat Fiber Networks filed for bankruptcy. **As** described more fully in the Main Application,⁶ under a pre-negotiated Reorganization Plan expected to be filed with the Bankruptcy Court within the next couple of weeks, all existing equity in Impsat Fiber Networks will be extinguished, approximately \$525 million of indebtedness represented by Impsat Fiber Networks' \$300 million Senior Notes due 2005 and its \$225 million Senior Notes due 2008 will be converted and exchanged into 98% of the outstanding new common stock of Impsat Fiber Networks, and other indebtedness of, or guaranteed by, Impsat Fiber Networks, including its \$125 million Senior Notes due 2003, will be exchanged for convertible notes, warrants to acquire common stock, and other reduced amounts of restructured indebtedness.

Following consummation of the proposed transfer of control, no single stockholder will control the reorganized company. Impsat Fiber Networks has advised Impsat USA that it understands that the largest holders of its Senior Notes due 2005 and Senior Notes due 2008, who will acquire voting common stock of the reorganized Impsat Fiber Networks pursuant to the Plan of Reorganization, are Morgan Stanley & Co. Incorporated ("Morgan

⁶

Simultaneously with the filing of this Application, Impsat USA has filed an Application for Transfer of Control ("Main Application") seeking Commission consent to transfer control of Impsat **USA** from Impsat Fiber Networks, as Debtor-in-Possession, to the new shareholders of Impsat Fiber Networks, and individual applications relating to 17 non-common carrier earth station licenses and a cable landing license to operate the AMERICAS II cable system.

Stanley”), York Capital Management (“York”) and Merrill Lynch Asset Management (“Merrill Lynch”). Impsat Fiber Networks’ representatives have advised Impsat USA that, based on their review of available information, these entities are expected to hold approximately 18%, 16.2%, and 12.5% of the reorganized company’s newly issued common stock, respectively. Impsat Fiber Networks’ management will receive approximately 2% of the newly issued common stock. The remaining equity in Impsat Fiber Networks is likely to be widely dispersed among the stockholders.

As mentioned above, other existing indebtedness of, or guaranteed by, Impsat Fiber Networks will be exchanged or reduced. Holders of Impsat Fiber Networks’ Senior Notes due 2003 will exchange such indebtedness for new guaranteed convertible senior notes in a reduced aggregate principal amount initially convertible into approximately 23% of Impsat Fiber Networks’ new common stock (“Series A Convertible Notes”). If creditors under certain financing agreements, including Nortel Networks Limited (“Nortel”), vote in favor of the proposed restructuring, they will receive a combination of senior secured indebtedness of Impsat Fiber Networks’ subsidiaries in Argentina and Brazil totaling in the aggregate \$134.9 million, \$19.9 million in the aggregate of new senior guaranteed notes of Impsat Fiber Networks initially convertible in the aggregate into 4.4% of Impsat Fiber Networks’ new common stock (“Series B Convertible”) and warrants to acquire 14.2% in the aggregate of Impsat Fiber Networks’ **new** common stock. Of these amounts, if Nortel were to convert all of the Series B Convertible Notes and to exercise all of the warrants that it is expected to receive in the restructuring, it would hold approximately 16.3% of Impsat Fiber Networks’ common stock on a fully-diluted basis.’

⁷ There are bankruptcy or securities laws that require individual noteholders to vote their Senior Notes in the Bankruptcy Case in their own names. While U.S. securities laws will require any holder of 5% or greater of Impsat Fiber Networks’ common stock to file a Schedule 13-D with the U.S. Securities and Exchange Commission, any such filings would be made after the consummation of the Bankruptcy Case.

Completion of the restructuring plan is subject to certain conditions, including its acceptance by affected classes of creditors and receipt of required regulatory approvals,

Upon reorganization, Impsat Fiber Networks' current Board of Directors will resign. and a new seven-member Board of Directors will be appointed. No single stockholder will have a majority of seats on the Board. Impsat USA has been advised that the current senior management of Impsat Fiber Networks likely will remain in place after the reorganization is completed.

IV. INFORMATION REQUIRED BY SECTION 63.18

(a) Name and Address of Transferor and Transferee

Transferor: Impsat Fiber Networks, Inc. (as Debtor-in-Possession)
Elvira Rawson de Dellepiane 150
Piso 8
C1107 BCA
Buenos Aires, Argentina
011-54-1 1-5170-0000

Transferee: Impsat Fiber Networks, Inc.
Elvira Rawson de Dellepiane 150
Piso 8
C1107 BCA
Buenos Aires, Argentina
011-54-11-5170-0000

Applicant: Impsat USA, Inc.
2040 North Dixie Highway
Wilton Manors, FL 33305
(954) 779-7171

(b) The Government, State, or Territory under the laws of which each corporate applicant *is* organized:

Impsat USA is a corporation organized under the laws of the State of Delaware.

Impsat Fiber Networks is a corporation organized under the laws of the State of Delaware.

operate the AMERICAS II cable system." Impsat USA also holds blanket domestic Section 214 authority."

Impsat Fiber Networks has not previously received authority under Section 214 of the Act.

(e) In the event that a transaction requiring a transfer of control application also requires the filing of a foreign carrier affiliation, the applicant shall reference the foreign carrier affiliation notification and date of its filing:

The foreign carrier affiliations of Impsat USA have not changed since July 11, 2002, when Impsat USA notified the Commission of the *pro forma* transfer of control of Impsat USA from Impsat Fiber Networks to Impsat Fiber Networks as Debtor-in-Possession with respect to the various Section 214 authorizations that Impsat USA holds.

(f) Not applicable

(g) Not applicable

Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Operate as an International Resale Carrier, File No. ITC-95-485, Memorandum Opinion, Order, Authorization, Certificate, and Order on Reconsideration, 12 FCC Rcd 7682 (1997).

¹⁰ *AT&T Corp., et al. Joint Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Construct, Acquire, and Operate Capacity in a Digital Submarine Cable System, the AMERICAS-II Cable System*, File No. ITC-98-342, File No. ITC-98-342A, Memorandum Opinion, Order and Authorization, 13 FCC Rcd 22534 (1998).

¹¹ 47 C.F.R. § 63.01(a)

(h) The name, address, citizenship and principal business of the direct or indirect holders of at least 10% of the equity of Impsat Fiber Networks are expected to be as follows:¹²

Name and Address	Citizenship	Principal Business	Percentage
Morgan Stanley & Co. incorporated 1585 Broadway New York, NY 10036	United States	Investment Bank	18%
York Capital Management 350 Park Avenue 4 th Floor New York, NY 10022	United States	Private Investment Firm	16.2%
Merrill Lynch Asset Management World Financial Center, South Tower 225 Liberty Street New York, NY 10080	United States	Investment Bank	12.5%

Impsat USA is wholly owned by Impsat Fiber Networks. In addition, Impsat Fiber Networks controls the following foreign carriers:

Impsat S.A. (operating and incorporated in Argentina)
Impsat S.A. (operating and incorporated in Colombia)
Telecomunicaciones Impsat S.A. (operating and incorporated in Venezuela)
Impsatel del Ecuador S.A. (operating and incorporated in Ecuador)
Impsat S.A. de C.V. (operating and incorporated in Mexico)
Impsat Comunicacoes Ltda. (operating and incorporated in Brazil)
Impsat Chile S.A. (operating and incorporated in Chile)
Impsat Peru S.A. (operating and incorporated in Peru)

Based on Impsat USA's reasonable diligence, as well as information provided by Impsat Fiber Networks to the best of the latter's knowledge and belief, none of Morgan Stanley, York, or Merrill Lynch is affiliated with a foreign carrier

¹² As Impsat USA notes in the Main Application, it is not possible at this time to ascertain the identities of all of Impsat Fiber Networks' shareholders or their exact future percentages of the parent company's total capital stock. To the extent there are any material changes in the expected equity ownership of Impsat Fiber Networks from the structure described herein and in the Main Application, Impsar USA will amend or supplement this Application.

The following are interlocking directorates with a foreign carrier:

	Impsat S.A. (Argentina)	Impsat S.A. (Colombia)	Impsar Chile S.A.	Impsar USA	Impsar Comunicacoes Ltda. (Brazil)	Telecomunicaciones Impsat S.A. (Venezuela)	Impsatel del Ecuador S.A.	Impsar Peru S.A.
Hector Alonso	X	X	X	X				
Roberto Vivo Chaneton				X	X			
Marcelo Girotti	X		X					
Marcelo Torre Gomez	X	X		X	X	X		
Jaime Pelaez		X				X		
Jose Torres	X		X					X
Ricardo Verdaguer	X		X	X			X	

There are no interlocking directorates between Morgan Stanley, York or Merrill Lynch and the foreign carriers mentioned above with which Impsat USA is affiliated.

(i) Impsat USA certifies that it is affiliated with foreign carriers that provide telecommunications services in Argentina. Colombia. Venezuela. Ecuador, Mexico, Brazil, Chile, and Peru.

(j) Impsat USA certifies that it provides international telecommunications services to the following countries in which its parent company controls a foreign carrier: Argentina, Colombia. Venezuela, Ecuador. Mexico. Brazil, Chile. and Peru.

(k) All of the countries listed above in Section IV(j) are members of the WTO. Furthermore, each of the affiliated foreign carriers lacks market power in the countries where it provides telecommunications service.

(l) Impsat USA's status as a non-dominant carrier in its provision of resold international switched services has not changed as a result of this filing. Pursuant to Section 63.10(a)(3) of the Commission's rules, Impsat USA is non-dominant because all of its affiliates

lack sufficient market power on the foreign end of the relevant routes to affect competition adversely in the U.S. Specifically, each of the foreign carriers possesses significantly less than 50% market share in the international transport and local access markets on the foreign end of each route.

(m) Impsat USA should continue to be regulated as a non-dominant carrier because all of its affiliates lack sufficient market power on the foreign end of the relevant routes to affect competition adversely in the U.S. Specifically, each of the foreign carriers possesses significantly less than 50% market share in the international transport and local access markets on the foreign end of each route.

(n) Impsat USA certifies that it has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

(o) Impsat USA certifies, pursuant to Sections 1.2001 through 1.2003 of the Commission's rules, that no party to the Application is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a.

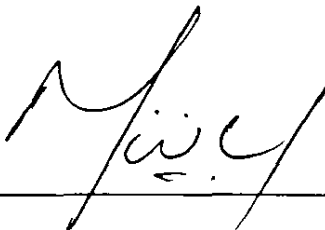
(p) Impsat USA seeks streamlined processing of this Application on the basis that it qualifies for a presumption of non-dominance under Section 63.10(a)(3) of the Commission's rules, as previously demonstrated above in Section IV(l) of this filing.

V. CONCLUSION

For these reasons, Impsat USA respectfully requests that the Commission consent to the transfer of control of Impsat USA as expeditiously as possible.

Respectfully submitted,

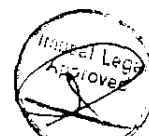
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2040 North Dixie Highway
Wilton Manors, FL **33305**
(954) 779-7171

Date: August 28, 2002



■

Attachment: Information required by Section 63.04(a)(6)–(a)(12)

(a)(6) – Description of the transaction

Please see the description of the proposed transaction as previously described in Section III of this filing and Section II of the Main Application.

(a)(7) - Description of the geographic areas in which the transferor and transferee (and affiliates) offer domestic telecommunications, and what services are provided in each area:

Impsat Fiber Networks is a holding company that does not itself offer telecommunications services.

Impsat USA is the only subsidiary of Impsat Fiber Networks that offers domestic telecommunications services. Impsat USA provides a small amount of interstate telecommunications services incidental to its international telecommunications services. Specifically, it provides satellite and submarine cable-based private line voice, data, video and business telecommunications services not interconnected with the public switched network. The jurisdictions in which Impsat USA currently provides domestic interstate telecommunications service are California, Florida, Michigan, New Jersey, New York, Pennsylvania, Puerto Rico, Tennessee, Texas, the U.S. Virgin Islands, Virginia, and Wisconsin. Revenues from Impsat USA's provision of such domestic interstate telecommunications services represent less than 1% of Impsat USA's total domestic and international telecommunications revenues. Impsat USA does not provide intrastate telecommunications services.

Based on Impsat USA's reasonable diligence, as well as information provided by Impsat Fiber Networks to the best of the latter's knowledge and belief, neither York nor Merrill Lynch provides telecommunications services or controls an entity, or holds any meaningful ownership in an entity, that provides domestic telecommunications services. Morgan Stanley Capital Group, Inc., an affiliate of Morgan Stanley, holds two common carrier fixed mobile licenses. Specifically: it is authorized to use frequencies in the 39 GHz band to serve the Albany-Schenectady-Troy, NY and Fresno, CA markets on a common carrier basis. In addition, affiliates of Morgan Stanley hold a 69.6% interest in Choice One, a facilities-based provider of local exchange and long distance telecommunications services in second and third tier markets in the northeastern and midwestern United States.

(a)(8) Statement as to how the Application fits into one or more of the presumptive streamlined categories.

This Application is entitled to presumptive streamlined treatment pursuant to Section 63.03(b)(2)(i) of the Commission's rules. As a result of the proposed transaction, the transferee, the new shareholders of Impsat Fiber Networks, will have a market share in the interstate, interexchange market of significantly less than 10%. As required by Section 63.03(b)(2)(i) of the Commission's rules, Impsat USA notes that Morgan Stanley is affiliated with two entities that provide competitive telephone exchange services and exchange access services: Morgan Stanley Capital Group, Inc. (Albany-Schenectady-Troy, NY, and Fresno, CA)

and Choice One (northeastern and midwestern United States). No dominant local exchange carrier is a party to this transaction. Neither Morgan Stanley Capital Group, Inc. nor Choice One is dominant with respect to any telecommunications service in any market. --

Impsat USA also is not dominant with respect to any telecommunications service in any market. Specifically, Impsat USA provides only a small amount of domestic interstate telecommunications services. Impsat USA does not provide intrastate telecommunications service, including telephone exchange services or exchange access services. As noted above, Impsat Fiber Networks itself does not itself offer telecommunications services. For these reasons, the Commission should accord this Application streamlined treatment

(a)(9) Identification of all other Commission applications related to the same transaction:

Simultaneously with the filing of this Application, Impsat USA has filed the Main Application seeking Commission consent to transfer control of Impsat USA from Impsat Fiber Networks, as Debtor-in-Possession, to the new shareholders of Impsat Fiber Networks, and individual applications relating to 17 non-common carrier earth station licenses and a cable landing license.

(a)(10) Statement of whether applicants are requesting special consideration because either party to the transaction is facing imminent business failure:

Like many other telecommunications companies, Impsat Fiber Networks has been dramatically impacted by the recent economic downturn. As noted above, Impsat Fiber Networks filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code on June 11, 2002.¹³ Under a pre-negotiated Reorganization Plan expected to be filed with the Bankruptcy Court within the next couple of weeks, all existing equity in Impsat Fiber Networks will be extinguished, approximately \$525 million of indebtedness represented by Impsat Fiber Networks' \$300 million Senior Notes due 2005 and its \$225 million Senior Notes due 2008 will be converted and exchanged into 98% of the outstanding new common stock of Impsat Fiber Networks, and other indebtedness of, or guaranteed by, Impsat Fiber Networks, including its \$125 million Senior Notes due 2003, will be exchanged for convertible notes, warrants to acquire common stock, and other reduced amounts of restructured indebtedness. Impsat USA seeks streamlined expedited treatment of this Application, as it expects the Bankruptcy Court to confirm Impsat Fiber Networks' Reorganization Plan in October 2002.

(a)(11) – Identification of any separately filed waiver requests being sought in conjunction with the transaction.

Applicant has not filed any waiver requests in conjunction with the proposed transfer of control.

¹³

See *In re Impsat Fiber Networks*, Case No. 02-12882 (R.E.G.)(Bankr.S.D.N.Y.), filed June 11, 2002

(a)(12) - Public interest statement, including any additional information that may be necessary to show the effect of the proposed transaction on competition in domestic markets.

As explained more fully in the Main Application, approval of the proposed transfer of control will serve the public interest for several reasons. First, the proposed transfer of control will strengthen Impsat Fiber Networks financially, which, in turn, will enhance Impsat USA's own financial viability and ability to compete with well-financed rival companies in the domestic and international telecommunications markets.¹⁴ The Commission has repeatedly held that the public interest is served if a proposed transaction would increase competition among market participants.¹⁵

Consumers also will benefit from the proposed transfer of control through continued and enhanced choice among telecommunications providers. By providing Impsat USA with access to greater financial resources, the proposed transfer of control of Impsat USA will strengthen the Company's ability to offer competitive services and thus promote more customer choice for telecommunications services.

Furthermore, approval of the proposed transfer of control is consistent with the goals of the bankruptcy process. The Commission has acknowledged the importance of fulfilling the objectives of the bankruptcy laws, which include equality of distribution among creditors, a fresh start for debtors, and the efficient and economical administration of cases.¹⁶ The proposed restructuring will allow the reorganized Impsat Fiber Networks to be free of the financial constraints associated with bankruptcy and enable the parent company to start anew."

Finally, there is no basis for concluding that the proposed transaction could potentially harm the public if consummated. The proposed transfer of control will not adversely impact competition in any of the markets in which Impsat USA currently provides service. Significantly, no competitors will be eliminated or adversely affected as a result of the proposed transfer of control. Based on Impsat USA's reasonable diligence, as well as information provided by Impsat Fiber Networks to the best of the latter's knowledge and belief, neither York nor Merrill Lynch¹⁸ provides telecommunications services to the public or controls an entity or

¹⁴ See *In-Flight Phone Corp./or Transfer of Control to MCI Telecommunications Corp.*, Declaratory Ruling and Order, 10 FCC Rcd 10448, 10449 ¶ 7 (1995).

¹⁵ *Id.*; *Execuline of Sacramento, Inc. Transferor, and American Sharecom, Inc. Transferee*, Memorandum Opinion and Order, 6 FCC Rcd 5964, 5964 ¶ 6 (1991).

¹⁶ *Fox Television Stations, Inc.*, Declaratory Ruling, 8 FCC Rcd 5341, 5343-44 ¶ 14 (1993).

¹⁷ See e.g., *Telemundo Group, Inc. Debtor in Possession (Transferor) and Telemundo Group, Inc. (Transferee) for Transfer of Control of Telemundo of Puerto Rico, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 1104, 1106 ¶ 13 (1994).

¹⁸ The Commission's files reflect that Merrill Lynch's parent company and its affiliates hold 10 industrial/business radio licenses. In addition, the Commission's files reflect that Merrill Lynch's parent company holds an aeronautical fixed license. That Merrill Lynch's parent company and/or affiliates hold industrial/business radio licenses and an aeronautical fixed license does not pose a competitive threat because such licenses are not used to provide telecommunications services to the public.

holds any meaningful ownership in an entity that provides telecommunications services in the same markets as Impsat USA.

Impsat USA's diligence reflects that affiliates of Morgan Stanley have minimal telecommunications-related holdings. The proposed transaction therefore will not adversely affect telecommunications competition in the United States. Specifically, Morgan Stanley Capital Group, Inc., an affiliate of Morgan Stanley, holds **two** common carrier fixed mobile licenses." Because Morgan Stanley Capital Group, Inc. and Impsat USA serve different markets, competition is not threatened by approval of this transaction. Affiliates of Morgan Stanley also hold equity ownership interests of 69.6% in Choice One Communications Inc. ("Choice One"),²¹ a facilities-based competitive local exchange carrier ("CLEC") and interexchange carrier ("IXC"). Competition in the local exchange and long distance markets will not be adversely affected by the proposed transaction because Choice One does not possess significant market share in any telecommunications market in the United States.²² Accordingly, the proposed transfer of control serves the public interest and should be approved.

¹⁹ The Commission's files reflect that Morgan Stanley Capital Group, Inc. is authorized to use frequencies in the **39 GHz** band to serve the Albany-Schenectady-Troy, NY and Fresno, CA markets on a common carrier basis.

²⁰ None of Impsat USA's circuits originates or terminates in the **Albany-Schenectady-Troy, NY** or Fresno, CA market.

²¹ In the Matter of Choice One Communications International Inc. Petition for Global Authority Pursuant to Section **214** of the Communications Act of **1934**, as amended, to Operate as a Facilities-Based and Resale Carrier Between the United States and International Points (File No. ITC-214-1998111 **17-00802**) (filed November 17, **1998**); Morgan Stanley Capital Partners III, Inc., MSDW Capital Partners IV, Inc., Schedule 13-D (filed April 25, 2002). Choice One provides local exchange and long distance telecommunications services in second and third tier markets in the nonheastern and midwestern United States. Choice One also holds an international Section 214 authorization. **Overseas Common Carrier Section 214 Applications and Section 310(b)(4) Actions Taken**, Public Notice, **DA** No. 99-113 (rel. Jan. 7, 1999).

²² As the FCC noted in this year's edition of *Trends in Telephone Service*, CLECs collectively provided only **9%** of switched access lines in service to end-user customers nationwide at the end of June 2001. *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, (rel. May **2002**) at 9-1. Similarly, last year AT&T, Worldcom, and Sprint collectively held approximately **78%** of the market share of the residential long distance market. *Id.* at Table 10.10. The remaining **22%** of market share is widely distributed among over **700** IXCs.